



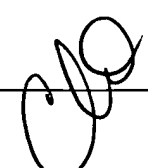
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,822	09/03/2003	Klaus Galehr	IVd07US	4120
7590 06/03/2004			EXAMINER	
John C. Thompson 69 Grayton Road Tonawanda, NY 14150			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/653,822	Applicant(s) GALEHR, KLAUS	
	Examiner Tuan N. Nguyen	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/3/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second receptacle (26) includes an insert (28) in line 2 of claim 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 7 and 14 are objected to because of the following informalities: "An application" in line 1 of claims 2-17 should be --The application--; and "the base plate (18)" in line 2 of claim 7 and "the closed lower end" in lines 1-2 of claim 14 appear to lack antecedent basis in the claim. Claim 7 appears to fit with the limitations of claim 6. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Naughton.

In regard to claim 1, Naughton discloses an applicator apparatus (Fig. 6) for facilitating the application of a substance on an application location comprising an elongated applicator (20) having a gripping end and a working end (either end), the working end being provided with coating (the cotton tip); and a base body (12) having a first receptacle (60) operable to retain there a fluid, and a second receptacle (where the cotton applicator is storage therein) supported on the base body next to the first receptacle being operable to receive therein the working end of the substance transfer element during stockage of the applicator apparatus prior to its substance applying use.

In regard to claim 2, the second receptacle forms a stand for the applicator (20), wherein the base body is configured to support the application apparatus in a stable manner on a horizontal surface while the applicator apparatus in a stand alone support position in the second receptacle.

In regard to claim 3, the first receptacle and the second receptacle are spaced from one another and each has a central longitudinal axis with the central longitudinal axes of the first receptacle and the second receptacle being substantially parallel to one another.

In regard to claim 4, the base body includes a socket (the raised round wall of body 12) in which both the first and second receptacles are formed.

In regard to claim 5, the first receptacle (60) includes an insert (64) operable to be seated in the socket.

In regard to claim 11, the second receptacle is substantially in the configuration of a "blind hole."

4. Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1153579 (hereinafter Maletz).

In regard to claim 1, Maletz discloses an applicator apparatus (Fig. 11) for facilitating the application of a substance on an application location comprising an elongated applicator (5) having a gripping end and a working end, the working end being provided with coating; and a base body (6) having a first receptacle (17) operable to retain there a fluid, and a second receptacle (27) supported on the base body next to the first receptacle being operable to receive therein the working end of the substance transfer element during stockage of the applicator apparatus prior to its substance applying use.

In regard to claim 14, a closed lower end of the first receptacle (17) is rounded.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 and 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maletz in view of Dodge.

The base body (6) of Maletz further includes a base plate having a layout extent being formed by the projection of the base plate or a hand grippable portion so as to allow the user to hold the device, wherein the grippable portion, obviously, could have a recess similar to that about (8) seen in Fig. 3. The Maletz first receptacle (17) further

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includes an insert (2) forming the fluid retaining volume of the first receptacle and a removable or pierceable cover foil for covering the access aperture of the first receptacle, the cover foil is obviously being secured to the access being secured to the access aperture of the first receptacle by a welded seam (about 25) which encircles the access aperture and can obviously extend beyond the first receptacle edge, which is well known in the art to allow a user to easily peel the cover off.

The Maletz differs from the instant invention in that the first and second receptacles are form one on top of the other where their longitudinal central axes are the same. Attention is directed to the Dodge reference, which discloses an analogous applicator apparatus having first and second receptacles next to each other in the horizontal plane (see Figs. 1 and 2), wherein their longitudinal central axes are substantially parallel to one another, and wherein the height of the receptacles are different in relative to one another. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to rearrange the first and second receptacles of Maletz next to each other so that their longitudinal central axes are substantially parallel to one another as, for example, taught by Dodge since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

With respect to the specific height of the receptacles as claimed, it would have been obvious to one of ordinary skill in the art at the time the invention was made to arrive at the specific height as claimed since it has been held that discovering an

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optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maletz in view of Dodge as applied to claims 1 and 4 above, and further in view of Brownstein.

The Maletz in view of Dodge device teaches all of the limitations as claimed except for a fluid capture rim encircles the socket for capturing fluid spillage. Attention is directed to the Brownstein reference, which discloses a cleaning tray (12) for mop or applicator and a liquid container, wherein the tray (12) includes channels (26, 27), which is equivalent to applicant fluid capture rim (20) for capturing fluid spillage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Maletz in view of Dodge device, a fluid capture rim as, for example, taught by Brownstein in order to capture fluid spillage.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Discko, Jr., DeJean, Jr., Gueret, Gordon, Raymond, 2d., and Rebora disclose other applicator apparatus and multiple receptacles packages.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 703-306-9046. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tuan N. Nguyen
Primary Examiner
Art Unit 3751
6/1/04

TN